



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities

Date:  
05/09/2024  
Employer ID number:

Form you must file:

Tax years:  
All  
Person to contact:

Release Number: 202431013  
Release Date: 8/2/2024  
UIL Code: 501.03-00,  
501.03-05

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

Because you don't qualify as a tax-exempt organization under IRC Section 501(c)(3), donors generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit [www.irs.gov](http://www.irs.gov).

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038



Department of the Treasury  
Internal Revenue Service

Date: March 4, 2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = Date

C = State

D = Location

E = City

F = Name

j = Number

k dollars = Amount

**UIL:**

501.03-00

501.03-05

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

**Facts**

You submitted Form 1023-EZ *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

You attest that you were incorporated on B in the state of C. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of Section 501(c)(3) of the Code, that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3) of the Code.

You attest that you are organized and operated to further educational purposes. You attest that you have not conducted and will not conduct prohibited activities under Section 501(c)(3) of the Code. Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way;
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals;
- Not further nonexempt purposes (such as purposes that benefit private interests) more than insubstantially;
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s);
- Not to devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h);
- Not provide commercial-type insurance as a substantial part of your activities.

You stated on your 1023-EZ application that your mission is to raise the awareness of vineyards and wineries in the D region. You support both the winery members and the grower members.

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations. You are an association of j wineries in the D region located in northern E county. Your activities promote the region and each specific winery to increase awareness among wine consumers. You use road signage, freeway signage, and regional brochures and maps for promotional purposes. Your regional website directs wine consumers to each of your j wineries. You conduct D wine country passport weekends whereby you sell passports which grant wine consumers access to wine tasting events at all your j wineries, and the passport also covers food. You conduct wine pouring activities for nonprofit social events to help them with fundraising. No money is charged to the nonprofit organizations and all wine is donated for these events.

You are in the process of applying with the F for the D region to be designated as an official wine grape-growing region. This will provide an official appellation for the mutual benefit of wineries and consumers. The application process will cost k dollars that is being shared by your members.

Your Articles of Incorporation were obtained from the website of state C and shared with you. They state you are organized for public purposes and that your specific purpose is wine education.

#### **Law**

IRC Section 501(c)(3) provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious, or educational purposes, in which no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, for an organization to be exempt and described in IRC Section 501(c)(3), that organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Rev. Rul. 71-504, 1971-2 C.B. 231, describes a city medical society, which had been recognized as exempt from federal income tax under IRC Section 501(c)(6), and then asked the Service to be reclassified as an educational organization exempt under Section 501(c)(3). While some of its activities were charitable, the organization had substantial noncharitable and noneducational purposes and activities, which precluded it from qualifying under Section 501(c)(3).

In Better Business Bureau of Washington D.C. Inc v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States interpreted the requirement in IRC Section 501(c)(3) that an organization be “operated exclusively” by indicating that an organization must be exclusively devoted to exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In Colorado State Chiropractic Soc. v. Commissioner, 93 T.C. 487 (1989), it was held that many of the organization’s activities were promoting individual members’ businesses and thus the organization failed to qualify for exemption under IRC Section 501(c)(3). These include grand openings or open houses held by organization’s members’ individual chiropractic practices. Such activities were not related to the general imparting of information to the public about the importance of chiropractic health care.

#### **Application of law**

IRC Section 501(c)(3) sets forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3) as specified in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You are not operated exclusively for purposes described in Section 501(c)(3). You are primarily promoting your member wineries in the D region. For example, you have created signage and regional brochures and maps for promotional purposes. Your regional website directs wine consumers to each of your j wineries. These activities are substantial and therefore, you are not operating exclusively for an exempt purpose as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). Further, your activities are designed to serve the private interests of your member wineries which is in contravention to Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

You are like the organization in Rev. Rul. 71-504 since your activities are serving the private interests of your member wineries. You are promoting the businesses of your members. This is evidenced by the fact that you are obtaining an official designation which serves the private interests of your members. While you may carry on some educational activities, you are conducting substantial non-exempt activities for your members which precludes exemption under IRC Section 501(c)(3).

Like the organization in Better Business Bureau, you have a substantial non-exempt purpose of promoting the wineries in the D region, and that destroys exemption under IRC Section 501(c)(3) regardless of the number and importance of truly exempt purposes.

Like the organization described in Colorado State Chiropractic Soc., your activities promote the businesses of your members which is a substantial nonexempt purpose. Therefore, you are not exempt under Section 501(c)(3).

### **Conclusion**

Based on the information you have provided, you are not operated exclusively for exempt purposes. You are serving the private interests of your members and are operating for substantial non-exempt purposes. Therefore, you do not qualify for exemption under IRC Section 501(c)(3).

### **If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

### **If you don't agree**

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

### **Where to send your protest**

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Mail Stop 6403  
PO Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Mail Stop 6403  
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

**Contacting the Taxpayer Advocate Service**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements